IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7601 OF 2007

Mukesh Mansukhlal Shah ..Petitioner

Versus

Dilip Shankar Chaudhary & Ors. ..Respondents

Mr.K.P.Anilkumar for the petitioner.

Coram : A.P.DESHPANDE,J

Date : 12.10.2007

PC

1. The landlord has instituted the suit against the tenant for ejectment and possession. The evidence of the plaintiff is over. The defendant filed additional written statement and in the additional written statement denied the title of the landlord to the property. Hence, the landlord moved an application for amendment of the plaint under Order VI Rule 17, raising the denial of the title as one of the ground for eviction, which is stipulated in Section 15 of Maharashtra Rent Control Act. The application has been allowed and it is this order which goes to allow the amendment application moved by the plaintiff, which is challenged in the Writ petition. Learned Counsel for the petitioner/defendant submits that the defendant no.1 had already moved an application for amendment to the additional written statement filed on 18.6.2007,

which inadvertently goes to deny the title of the landlord. The submission is that had the Court below heard the said application for amendment of additional written statement prior in point of time than the consideration of the amendment application filed by the plaintiff, an appropriate decision could have been reached by the Court below. The application for amendment of the additional written statement has been moved by the defendant on 17.8.2007. Whereas the application for amendment moved by the plaintiff was filed on 27.6.2007. It is thus clear that the application of the plaintiff filed prior in point of time has been decided first. No objection to the same can be taken. However, it shall be open for the petitioner/defendant no.1 to press his application for amendment of the additional written statement and in the event the petitioner succeeds in the said application, then it shall be open for the petitioner to apply for review of the impugned order. With this clarification, Writ petition is summarily dismissed.

(A.P.DESHPANDE,J)